THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 17697 of 2004

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Dated:24.08.2005

Between:

Y.Laxma Reddy, s/o Buchi Reddy,
r/o Veldanda Village & Mandal, Kalvakurthi Tq.,
Mahaboobnagar District.

..... PETITIONER

AND

The Joint Collector, Mahaboobnagar, Mahaboobnagar District, and

another.

.....RESPONDENTS

ORDER:

The petitioner was appointed as a fair price shop dealer of Hazilapur Village, Veldanda Mandal, Mahaboobnagar District. He filed the present writ petition praying as follows.

> For the reasons stated in the accompanying affidavit it is hereby prayed that this Hon'ble Court may be pleased to issue preferably a writ in the nature of Mandamus or any appropriate writ declaring the action of respondent No.2 in making permanent appointment pending appeal filed by the petitioner before the 1st respondent as illegal, arbitrary and against the principles of natural justice or pass such further or other order as orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

The brief facts leading to filing of the writ petition are as follows. The Mandal Revenue Officer, Veldanda, submitted report to the second respondent. In his report he pointed out the irregularities committed by the petitioner in supplying the commodities. During the enquiry it was found, the petitioner distributed 21.38 quintals of Public distribution rice for 123 coupons (card holders) in December 2002 and also not distributed AAY, Annapurna and Mid Day Meals during the same month and that he did not produce the stock register at the time of enquiry. It was also alleged that the petitioner has diverted the public distribution rice into black

market. Therefore, the second respondent initiated necessary action under the A.P.State Public Distribution System Control Order, 2001 (for short 'the Control Order'). However, it was found that the authorization of the petitioner as dealer expired on 31.03.2000 and the same was not renewed beyond that date. Therefore, in spite of passing the orders under Clause 5(4) of the Control Order, the second respondent observed that the petitioner is not having valid authorization and therefore, he automatically ceases to be the fair price shop dealer and not eligible to run the fair price shop.

As disclosed in the affidavit accompanying the writ petition, the petitioner filed an appeal before the first respondent on 27.09.2004 along with an application praying for stay, which was disposed of by the first respondent observing that any appointment would be subject to result of the appeal. At that stage, the present writ petition is filed.

The learned counsel for the petitioner, Sri.S.Bhoopal Reddy, submits that cancellation of authorization of the petitioner by the second respondent without following the procedure under the Control Order is illegal. I am afraid the submission is misconceived. A reading of the impugned order would show that after 31.03.2000, the petitioner's authorization as fair price shop dealer was not renewed and therefore, there was no question of cancelling his authorization under Clause 5(4) of the Control Order. Be it noted, authorization of fair price shop dealer is defined under Clause 2(6) of the Control Order as a person who is appointed as a retail dealer. After the expiry of the authorization period, no person can be treated as authorized fair price shop dealer.

Admittedly, the appeal is pending. Pending the appeal, the petitioner has no right to prevent the authorities from appointing a regular dealer to the fair price shop of Hazilapur Village. It is brought to the notice of this Court that by reason of the interim orders passed by this Court, the petitioner is being continued as fair price shop dealer. This Court is surprised to know this. By interim order dated 01.10.2004, this Court only directed the respondents not to make any permanent appointment in respect of Hazilapur fair price shop. There was no direction to continue the petitioner. It was a mistake on the part of the second respondent in continuing the petitioner as fair price shop dealer. This mistake should be rectified immediately.

The writ petition is accordingly dismissed, giving liberty to the petitioner to approach the Joint Collector for expeditious disposal of the appeal, if not already disposed of. No costs.

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(V.V.S.RAO, J)

24.08.2005

vs